

Lochner v. DATCP



No. 19-CV-878-WMC

The Equal Pay Act

29 USC § 206(d) Prohibition of sex discrimination

(1) No employer shall discriminate between employees on the basis of sex by paying wages to employees at a rate less than the rate at which he pays wages to employees of the opposite sex for equal work, except where such payment is made pursuant to:

(iv) a differential based on any other factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this section by the amendments made to this chapter by the Fair Labor Standards Amendments of 1966, title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], or the Fair Labor Standards Amendments of 1974, wages at the following rate: Effective after December 31, 1977, not less than the minimum wage rate in effect under subsection (a)(1) of this section.

(c) Repealed. Pub. L. 104-188, [title III, §2104(c), Aug. 20, 1996, 110 Stat. 1929]

(d) Prohibition of sex discrimination

(1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

(2) No labor organization, or its agents, representing employees of an employer having employees subject to any provisions of this section shall cause or attempt to cause such an employer to discriminate against an employee in violation of paragraph (1) of this subsection.

(3) For purposes of administration and enforcement, any amount owing to any employee which have been withheld in violation of this subsection shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this chapter.

(4) As used in this subsection, the term "labor organization" means any organization of any kind, or any agency or employee representation

section (b) of this section.

(2) Notwithstanding the provisions of section 213 of this title (except subsections (a)(1) and (5) thereof) and the provisions of chapter 67 of title 41, every employer in an establishment providing linen supply services to the United States under a contract with the United States or any subcontract thereunder shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (b) of this section, except that if more than 50 per centum of the gross annual dollar volume of sales made or business done by such establishment is derived from providing such linen supply services under any such contracts or subcontracts, such employer shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (a)(1) of this section.

(f) Employees in domestic service

Any employee—

(1) who in any workweek is employed in domestic service in a household shall be paid wages at a rate not less than the wage rate in effect under subsection (b) of this section unless such employee's compensation for such service would not because of section 209(a)(6) of the Social Security Act [42 U.S.C. 409(a)(6)] constitute wages for the purposes of title II of such Act [42 U.S.C. 401 et seq.], or

(2) who in any workweek—
(A) is employed in domestic service in one or more households, and
(B) is so employed for more than 8 hours in the aggregate,

shall be paid wages for such employment in such workweek at a rate not less than the wage rate in effect under subsection (b) of this section.

(g) Newly hired employees who are less than 20 years old

(1) In lieu of the rate prescribed by subsection (a)(1) of this section, any employer may pay any employee of such employer, during the first 90 consecutive calendar days after such employee is initially employed by such employer, a wage which is not less than \$4.25 an hour.


(2) No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in paragraph (1).

The pay differential - causation

- **DATCP's business decision to move the weights and measures classification to a broadband pay schedule and start paying the new hires for the experience they brought to DATCP;**
- **The strictures of the Comp plan limited DATCP's ability to raise the salaries of the weights and measures inspectors hired before broad-banding**
- **With a limited number of equity DERA, DATCP started with the most senior inspectors with the greatest inequities and worked its way down;**
- **The 2019-21 Comp plan finally allowed DATCP to give Ms. Lochner a \$2.06 discretionary raise bringing her salary to the same level as other inspectors hired before broad-banding who, like Ms. Lochner, had under 10 years of State service;**
- **The DERA program was suspended in FY 2020, so only general wage adjustments—across the board—were available compensation tools.**

The pay differential - causation

- **DATCP's business decision to move the weights and measures classification to a broadband pay schedule and start paying the new hires for the experience they brought to DATCP;**

- 
- A large, semi-transparent blue circle is positioned on the left side of the slide, partially overlapping a darker blue rectangular background that occupies the left half of the page.
- **Pay inequities resulted because DATCP made a business decision to move the class to a broad band pay schedule to attract talented candidates;**
 - **DATCP announced salary ranges for new recruitments that were higher than the salaries of current employees**

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Lochner's 11 comparators:

- **Suri**
- **Dailey**
- **Brockman**
- **Burdick**
- **Karczewski**
- **Smithey**
- **Hoffman**
- **Schaefer**
- **Lindert**
- **Eberle**
- **Uminski**

**Post-
broadbanding
hiring
justifications**

Dkt. 32-1 ¶¶
106-110, 112-
132

Shawn Suri <ul style="list-style-type: none"> • Certified tank specialist • 7 years fuel specialist 	Anthony Hoffmann <ul style="list-style-type: none"> • 5 years exp. weights and measures
Michael Dailey <ul style="list-style-type: none"> • 3 years exp regulatory enforcement fieldwork • 1 year WMPSS LTE • 15 weights and measures trainings 	Jacob Schaefer <ul style="list-style-type: none"> • WMPSS LTE – highly regarded employee • Negotiated salary
Chad Brockman <ul style="list-style-type: none"> • 5 years relevant weights and measures exp • Some chemical engineering 	Daniel Lindert <ul style="list-style-type: none"> • 25 years aircraft maintenance • Experience with storage tanks and scales
Joel Burdick <ul style="list-style-type: none"> • Science and fire safety background • 21 months meat safety inspector 	Nicholas Eberle <ul style="list-style-type: none"> • WMPSS LTE 2+ years, \$20-\$21 per hour • Negotiated salary
Jason Karczewski <ul style="list-style-type: none"> • 20 years, managing pricing, sales, inventory, and point of sales computer systems; computer science 	Joseph Uminski <ul style="list-style-type: none"> • 16 years law enforcement • 3rd candidate
Lance Smithey <ul style="list-style-type: none"> • Over 4 years petroleum industry, meter testing and calibration, tank system testing, etc. • hazardous material training 	

The pay differential - causation

- **DATCP's business decision to move the weights and measures classification to a broadband pay schedule and start paying the new hires for the experience they brought to DATCP;**
- **The strictures of the Comp plan limited DATCP's ability to raise the salaries of the weights and measures inspectors hired before broad-banding**

A	B	C	D	E	F	G	H	I	J	K	L	M
						2-18-18 across the board						
Name	Seniority	WMPSS Entry or equivalent start date	WMPSS Entry start pay	WMPSS Senior or equivalent start date	WMPSS Senior start pay	market increase	DERA/ DMC 2018	6-24-18 2% GWA	1-6-19 2%	DERA/ DMC 2019	12-22-19 discretionary generated market adjustment dollars	1-5-20 2% GWA
Stobb*1	3-10-89	5-25-97	\$12,683	6-15-14	\$26,282	\$27.30	-	\$27.85	\$28.41	\$30.21 retention DERA; \$1500 DMC	-	\$30.82
Santroch*	8-30-93	8-30-93	\$12,005	11-03-02	\$17,446	\$26.67	-	\$27.21	\$27.76	\$28.41 equity DERA; \$1500 DMC	\$30.00	\$30.60
Mccann***2	10-25-99	4-16-17 ³	\$26.50	3-3-19	\$29.96	\$27.25	-	\$27.80	\$28.36	-	-	\$30.56
Hailer*	12-6-99	12-6-99	\$13,988	11-3-02	\$15,592	\$24.41	\$26.50 equity DERA; \$2000 DMC	\$27.03	\$27.58		\$28.50	\$29.07
Zorn ⁴ **	11-27-00	11-27-00	\$13,988	11-3-02	\$15,592	\$24.41	\$2000 DMC	\$24.90	\$25.40	-	Retired	Retired
Malek *	7-9-01	11-3-02	\$15,592	11-3-02	\$15,592	\$24.41	-	\$24.90	\$25.40	\$27.80 equity DERA; \$1500 DMC	\$28.49	\$29.06
Petzold**	10-13-03	10-18-15	\$20.25	7-8-18	\$26.54	-	\$24.48 equity DERA	\$24.97	\$27.08	\$27.80 equity DERA	\$28.49	\$29.06
Daniel *	10-31-05	10-31-05	\$15.16	6-15-14	\$22,668	\$23.65		\$24.13	\$24.62	\$27.02 equity DERA	\$28.49	\$29.06
Sander*	12-11-06	12-11-06	\$15,781	6-15-14	\$22,544	\$27.25 ⁵	\$2000	\$27.80	\$28.36	\$1500 DMC	\$28.49	\$29.06
Schreiber*	8-18-08	8-18-08	\$19,451	8-3-09	\$21,491	\$23.18		\$23.65	\$24.13	\$26.53 equity DERA	\$28.49	\$29.06
Kohlman*	3-2-09	6-17-12	\$21.23	6-15-14	\$26,327	*6		\$27.90	\$28.46		-	\$29.03
Mccarthy*	1-3-11	1-3-11	\$16,958	6-15-14	\$22,013	\$22.99	\$2000 DMC	\$23.45	\$23.92	\$26.32 equity DERA; \$2000 DMC	\$26.41	\$26.94
Torpen*	5-9-11	5-9-11	\$19,841	6-17-12	\$21,491	\$22.99		\$23.45	\$23.92	\$26.32 equity DERA	\$26.41	\$26.94
Dequaine	11-18-13	11-18-13	\$20.04	6-14-15	\$21,973	\$22.73	\$1000 DMC	\$23.19	\$23.66		\$26.41	\$26.94
Clark	12-22-13	7-22-18	\$24.75	-	-	-	-	-	\$25.25	-	-	\$25.76
Lochner	1-13-14	11-1-15	\$20.34	5-14-17	\$22.65	\$23.40	Denied	\$23.87	\$24.35	\$2000 DMC	\$26.41	\$26.94
Sindelar**	9-22-14	10-2-16	\$27.00 ⁷	1-6-19	\$29.88 ⁸	\$27.75	-	\$28.31	\$30.48	-	-	\$31.09
Burdick**	8-10-15	6-25-17	\$24.00 ⁹	11-25-18	\$26.82 ¹⁰	\$24.75	-	\$25.25	\$27.36	-	-	\$27.91
Stoddard	9-8-15	9-8-15	\$20.25	7-9-17	\$22.56	\$23.31	\$1000	\$23.78	\$24.26	-	\$26.41	\$26.94
Suri**	4-4-16	4-4-16	\$24.00	4-29-18	\$26.29 ¹¹	\$24.75	-	\$26.82	\$27.36	-	-	\$27.91
Dailey**	1-9-17	1-9-17	\$23.00	7-9-18	\$25.80	\$23.75	-	\$24.23	\$26.32	\$2500 DMC ¹²	\$26.40	\$26.93
Brockman**	3-20-17	3-20-17	\$24.00	10-14-18	\$26.82	\$24.75	-	\$25.25	\$27.35	-	-	\$27.91
Karczewski**	7-24-17	7-24-17	\$24.00	12-23-18	\$26.82	\$24.75	-	\$25.25	\$27.35	-	-	\$27.91
Smithy**	4-30-18	4-30-18	\$25.00	8-4-19	\$27.61	-		\$25.50	\$26.01	-	-	\$28.17
Hoffmann	8-6-18	8-6-18	\$26.00	-	-	-	-	-	\$26.52	-	-	\$27.06
Schaefer	8-20-18	8-20-18	\$25.00	-	-	-	-	-	\$25.50	-	-	\$26.01
Lindert	9-4-18	9-4-18	\$24.25	-	-	-	-	-	\$24.74	-	-	\$25.24
Soper	1-22-19	1-22-19	\$24.25	-	-	-	-	-	-	-	-	\$24.74
Eberle	4-15-19	4-15-19	\$25.00	12-8-19	\$26.60	-	-	-	-	-	-	\$

The pay differential - causation

- **DATCP's business decision to move the weights and measures classification to a broadband pay schedule and start paying the new hires for the experience they brought to DATCP;**
- **The strictures of the Comp plan limited DATCP's ability to raise the salaries of the weights and measures inspectors hired before broad-banding**
- **With a limited number of equity DERA, DATCP started with the most senior inspectors with the greatest inequities and worked its way down;**

Exhibit 1051 – DATCP Fiscal Year 2018 DMC/DERA Plan

DATCP – DMC/DERA Plan
Page 2

DERA Strategy

DATCP is permitted 17 equity DERA awards, all of which will be used by the agency. DATCP's method for determining equity recipients is as follows:

- DATCP Human Resources staff will provide wage and state service information to Division Administrators and the Secretary's Office for use in identifying positions or areas of greatest need (e.g., inequity, compression between supervisors and employees, etc.).
- Each Division Administrator will be asked to review the recommendations received and identify whether or not s/he endorses or rejects the recommendation for a DERA for each person within the division based on the employee's work performance and responsibilities.
- Final division recommendations will be reviewed by the Deputy Secretary; once award recipients are finalized by the Secretary's Office, the Bureau of Human Resources will coordinate submission to DOA-DPM.

- (h) Equity DERA will only be approved if the employee's salary has been determined to be lower than that of other state employees performing the same

I-14

Exhibit 1048 p. 150

Section I – 6.00

or similar duties at the same level of proficiency and who have comparable years of state service or if there is significant pay compression between the employee and the subordinates supervised. Limitations to these criteria will include:

1. External labor market factors will not be used.
 2. Salary averages will not be used for comparison purposes.
 3. Salary targets will not be used.
 4. The comparison group for determining equity will be all employees in the same classification, either in the entire agency or statewide, unless otherwise approved by DPM in advance of submission to DPM. With advance approval by DPM, an official subtitle or a working title within a classification may also be used as the comparison group.
 5. "Peer groups" based on agency-determined segments of state years of service or pay groupings within a classification will not be used for comparison purposes.
 6. The equity adjustment will not create a larger equity issue than the one being resolved.
 7. In determining compression, the supervisor must be able to perform the functions of, or provide technical expertise to, the employee(s) used to make the compression comparison.
- (i) Retention DERA will only be approved if the employee has a job offer in hand and the resultant loss of the employee's knowledge and experience would be a detriment to the agency.
- (j) Retention DERA will not be approved for potential movements within an agency or to another executive branch, non-UW agency.

Equity and Retention DERA

Lochner

COMPENSATION & EMPLOYMENT RELATIONS
101 E. WILSON ST., 4TH FL.
MADISON, WI 53703

JUSTIFICATION FOR DISCRETIONARY MERIT, EQUITY, OR RETENTION AWARD (DMC/DERA)

AGENCY:	EMPLOYEE NAME:	EMPLOYEE ID#	CLASSIFICATION TITLE:	PAY SCHEDULE & RANGE:
115	Angela Lochner	10000644	Weights & Measures Petro Sys. Spec. - Sr	05-03
CRITERIA (Choose One Only)				
Merit: Employee recognition for superior or meritorious performance. Justification should be supported by criteria outlined in Section 1.2.00(3) of the Compensation Plan.		Provide on page 2 of this document or attach		
Pay Equity: Justification should be supported by criteria outlined in Section 1.6.00(6) of the Compensation Plan.		Provide on page 2 of this document or attach		
Retention: Retention DMC/DERA will only be approved if the employee has a job offer in hand and the resultant loss of the employee's knowledge and experience would be a detriment to the agency. Retention DMC/DERA will not be approved for potential movements within an agency or to another executive branch, non-LTW agency.		Provide on page 2 of this document or attach		
DMC/DERA RECOMMENDATION				
Old Base Salary	New Base Salary	Funding Source(s):	Award Effective Date:	# Prior WRPS in Same FY:
23.40	26.75	PR	5/13/2018	
Recommended By (Supervisor):		Date:	Budget Approval (Funding approval only):	Division Administrator Approval:
Rockelle J. Miller		5/9/18	J. Miller	Don P. Bann
AGENCY HEAD APPROVAL (signature):		APPROVED:	DENIED:	DATE:
Rockelle J. Miller		Base Pay Adjustment: 3.35	Lump Sum:	5/9/18
DPM APPROVAL:		APPROVED:	DENIED:	DATE:
		Base Pay Adjustment:	Lump Sum:	
AGENCY CONTACT NAME:		CONTACT PHONE NO:		
Alison Scherer		608-224-4761		

Exhibit 1004 p.002

DOA-15330 (03/2018) PAGE 2

JUSTIFICATION:

PERFORMANCE CRITERIA (Check all that apply):

- ☒ Employee is not serving the first 12 months of an original probationary period on the award effective date
- ☒ Employee received satisfactory performance evaluation within last 12 months
- ☒ Employee has not received any form of formal discipline in the past 24 months
- ☐ Employee is a supervisor and has completed required performance evaluations for all subordinates

JUSTIFICATION NARRATIVE (Provide specifics and supporting documentation below):

Due to the implementation of broad banding in the Weights & Measures Petro, System Specialist series approximately 2 years ago, new hire rates of pay are exceeding that of previously hired and long term staff. The additional equity DERA for staff will allow the Weights & Measures Program to begin providing increased pay to longer term staff with more years of service, both within the state as well as within the program itself.

Hailer

COMPENSATION & EMPLOYMENT RELATIONS
101 E. WILSON ST., 4TH FL.
MADISON, WI 53703

JUSTIFICATION FOR DISCRETIONARY MERIT, EQUITY, OR RETENTION AWARD (DMC/DERA)

AGENCY:	EMPLOYEE NAME:	EMPLOYEE ID#	CLASSIFICATION TITLE:	PAY SCHEDULE & RANGE:
115 - DATCP	Steven Hailer	10004055	Vtbs & Measures Petro Sys. Spec - Sr	05-03
CRITERIA (Choose One Only)				
Merit: Employee recognition for superior or meritorious performance. Justification should be supported by criteria outlined in Section 1.2.00(3) of the Compensation Plan.		Provide on page 2 of this document or attach		
Pay Equity: Justification should be supported by criteria outlined in Section 1.6.00(6) of the Compensation Plan.		Provide on page 2 of this document or attach		
Retention: Retention DMC/DERA will only be approved if the employee has a job offer in hand and the resultant loss of the employee's knowledge and experience would be a detriment to the agency. Retention DMC/DERA will not be approved for potential movements within an agency or to another executive branch, non-LTW agency.		Provide on page 2 of this document or attach		
DMC/DERA RECOMMENDATION				
Old Base Salary	New Base Salary	Funding Source(s):	Award Effective Date:	# Prior WRPS in Same FY:
24.41	26.50	SCG	5/13/18	
Recommended By (Supervisor):		Date:	Budget Approval (Funding approval only):	Division Administrator Approval:
Rockelle J. Miller		5/4/18	J. Miller	Don P. Bann
AGENCY HEAD APPROVAL (signature):		APPROVED:	DENIED:	DATE:
Rockelle J. Miller		Base Pay Adjustment: 2.09	Lump Sum:	5/4/18
DPM APPROVAL:		APPROVED:	DENIED:	DATE:
		Base Pay Adjustment:	Lump Sum:	
AGENCY CONTACT NAME:		CONTACT PHONE NO:		
Alison Scherer		608-224-4761		

Exhibit 1058 p. 001

DOA-15330 (03/2018) PAGE 2

JUSTIFICATION:

PERFORMANCE CRITERIA (Check all that apply):

- ☒ Employee is not serving the first 12 months of an original probationary period on the award effective date
- ☒ Employee received satisfactory performance evaluation within last 12 months
- ☒ Employee has not received any form of formal discipline in the past 24 months
- ☐ Employee is a supervisor and has completed required performance evaluations for all subordinates

JUSTIFICATION NARRATIVE (Provide specifics and supporting documentation below):

Due to the implementation of broad banding in the W&M Petro System Specialist series a few years ago, new hire rates of pay are exceeding that of previously hired and long term staff. In particular at the point of reclassification. The proposed adjustment will allow for correction of a long term staff person with 18 years of state service.

Petzold

COMPENSATION & EMPLOYMENT RELATIONS
101 E. WILSON ST., 4TH FL.
MADISON, WI 53703

JUSTIFICATION FOR DISCRETIONARY MERIT, EQUITY, OR RETENTION AWARD (DMC/DERA)

AGENCY:	EMPLOYEE NAME:	EMPLOYEE ID#	CLASSIFICATION TITLE:	PAY SCHEDULE & RANGE:
115	Jonathan Petzold	10004088	Weights & Measures Petro Sys. Spec. - Entry	05-03
CRITERIA (Choose One Only)				
Merit: Employee recognition for superior or meritorious performance. Justification should be supported by criteria outlined in Section 1.2.00(3) of the Compensation Plan.		Provide on page 2 of this document or attach		
Pay Equity: Justification should be supported by criteria outlined in Section 1.6.00(6) of the Compensation Plan.		Provide on page 2 of this document or attach		
Retention: Retention DMC/DERA will only be approved if the employee has a job offer in hand and the resultant loss of the employee's knowledge and experience would be a detriment to the agency. Retention DMC/DERA will not be approved for potential movements within an agency or to another executive branch, non-LTW agency.		Provide on page 2 of this document or attach		
DMC/DERA RECOMMENDATION				
Old Base Salary	New Base Salary	Funding Source(s):	Award Effective Date:	# Prior WRPS in Same FY:
21.00	24.48	PR	5/13/2018	
Recommended By (Supervisor):		Date:	Budget Approval (Funding approval only):	Division Administrator Approval:
Rockelle J. Miller		5/9/18	J. Miller	Don P. Bann
AGENCY HEAD APPROVAL (signature):		APPROVED:	DENIED:	DATE:
Rockelle J. Miller		Base Pay Adjustment: 3.48	Lump Sum:	5/9/18
DPM APPROVAL:		APPROVED:	DENIED:	DATE:
		Base Pay Adjustment:	Lump Sum:	
AGENCY CONTACT NAME:		CONTACT PHONE NO:		
Alison Scherer		608-224-4761		

Exhibit 1055 p. 001

DOA-15330 (03/2018) PAGE 2

JUSTIFICATION:

PERFORMANCE CRITERIA (Check all that apply):

- ☒ Employee is not serving the first 12 months of an original probationary period on the award effective date
- ☒ Employee received satisfactory performance evaluation within last 12 months
- ☒ Employee has not received any form of formal discipline in the past 24 months
- ☐ Employee is a supervisor and has completed required performance evaluations for all subordinates

JUSTIFICATION NARRATIVE (Provide specifics and supporting documentation below):

Due to the implementation of broad banding in the Weights & Measures Petro, System Specialist series approximately 2 years ago, new hire rates of pay are exceeding that of previously hired and long term staff. The additional equity DERA for staff will allow the Weights & Measures Program to begin providing increased pay to longer term staff with more years of service, both within the state as well as within the program itself.

Exhibit 1056 – Jonathan Petzold would leapfrog 0 employees and correct against all other employees in his classification.

Greg 6 steps ok

ID	Last	First Name	Unit	Job Code	Descr	Position	Comp Rate	Company Dt
100034671	Lyngen	Janet	11500	73901	WTS MEASURES PETRO SPEC-ENTRY	012347	25.21	2/22/1993
100032270	Mccann	Richard	11500	73901	WTS MEASURES PETRO SPEC-ENTRY	317851	27.25	10/25/1999
100040888	Petzold	Jonathan	11500	73901	WTS MEASURES PETRO SPEC-ENTRY	317551 <i>2448</i>	21.00	10/13/2003
100099585	Loreck	Gregory	11500	73901	WTS MEASURES PETRO SPEC-ENTRY	317856	26.25	2/20/2014
100068541	Sindelar	Edward	11500	73901	WTS MEASURES PETRO SPEC-ENTRY	001875	27.75	9/22/2014
100074175	Burdick	Joel	11500	73901	WTS MEASURES PETRO SPEC-ENTRY	035172	24.75	8/10/2015
100072042	Dailey	Michael	11500	73901	WTS MEASURES PETRO SPEC-ENTRY	016495	23.75	1/9/2017
100100056	Nelson	Stefanie	11500	73901	WTS MEASURES PETRO SPEC-ENTRY	000852	23.75	6/12/2017
100100988	Karczewski	Jason	11500	73901	WTS MEASURES PETRO SPEC-ENTRY	020354	24.75	7/24/2017
100107068	Smithey	Lance	11500	73901	WTS MEASURES PETRO SPEC-ENTRY	317730	25.00	4/30/2018

Exhibit 1056 – Steven Hailer would leapfrog 0 employees and correct against 4 employees.

ID	Last	First Name	Unit	Job Code	Descr	Comp Rate	Company Dt
100018048	Kaelin	George	11500	73902	WTS MEASURES PETRO SPEC-SEN	29.23	9/26/1979
100038479	Stobb	Robert	11500	73902	WTS MEASURES PETRO SPEC-SEN	27.30	3/10/1989
100010994	Santroch	Wayne Allen	11500	73902	WTS MEASURES PETRO SPEC-SEN	26.67	8/30/1993
100040955	Hailer	Steven	11500	73902	WTS MEASURES PETRO SPEC-SEN 26.50	24.41	12/6/1999 ^{0/4}
100033911	Zorn	James	11500	73902	WTS MEASURES PETRO SPEC-SEN	24.41	11/27/2000
100007939	Malek	Joseph	11500	73902	WTS MEASURES PETRO SPEC-SEN	24.41	7/9/2001
100044340	Williams	Jared	11500	73902	WTS MEASURES PETRO SPEC-SEN	24.13	11/1/2004
100020683	Dagenhardt	James	11500	73902	WTS MEASURES PETRO SPEC-SEN	23.94	5/2/2005
100049366	Daniel	Jacques	11500	73902	WTS MEASURES PETRO SPEC-SEN	23.65	10/31/2005
100048039	Sander	David	11500	73902	WTS MEASURES PETRO SPEC-SEN	27.25	12/11/2006
100027403	Schreiber	Joe	11500	73902	WTS MEASURES PETRO SPEC-SEN	23.18	8/18/2008
100005068	Saladino	Joseph	11500	73902	WTS MEASURES PETRO SPEC-SEN	23.18	12/8/2008
100034950	Kohlman	Joel	11500	73902	WTS MEASURES PETRO SPEC-SEN	27.35	3/2/2009 ²
100045210	Mccarthy	Kevin	11500	73902	WTS MEASURES PETRO SPEC-SEN	22.99	1/3/2011
100016388	Torpen	Nathan	11500	73902	WTS MEASURES PETRO SPEC-SEN	22.99	5/9/2011
100063141	Dequaine	Mark	11500	73902	WTS MEASURES PETRO SPEC-SEN	22.73	11/18/2013
100063437	O'Brien	Erin	11500	73902	WTS MEASURES PETRO SPEC-SEN	22.73	1/2/2014
100063544	Lochner	Angela	11500	73902	WTS MEASURES PETRO SPEC-SEN	23.40	1/13/2014
100070299	Stoddard	Kent	11500	73902	WTS MEASURES PETRO SPEC-SEN	23.31	9/8/2015
100089818	Suri	Shawn	11500	73902	WTS MEASURES PETRO SPEC-SEN	26.29	4/4/2016 ³
100097874	Brockman	Chad	11500	73902	WTS MEASURES PETRO SPEC-SEN	24.75	3/20/2017 ⁴

Exhibit 1056 – Lochner would leapfrog 13 more senior employees and only correct against 2 employees.

ID	Last	First Name	Unit	Job Code	Descr	Position	Comp Rate	Company Dt
100018048	Kaelin	George	11500	73902	WTS MEASURES PETRO SPEC-SEN	003760	29.23	9/26/1979
100038479	Stobb	Robert	11500	73902	WTS MEASURES PETRO SPEC-SEN	317556	27.30	3/10/1989
100027989	Weber	Darrel	11500	73902	WTS MEASURES PETRO SPEC-SEN	317730S	27.23	1/16/1990
100010994	Santroch	Wayne Allen	11500	73902	WTS MEASURES PETRO SPEC-SEN	014176	26.67	8/30/1993 ^W
100040955	Hailer	Steven	11500	73902	WTS MEASURES PETRO SPEC-SEN	017665	24.41	12/6/1999 ^W
100033911	Zorn	James	11500	73902	WTS MEASURES PETRO SPEC-SEN	322813	24.41	11/27/2000 ^W
100007939	Malek	Joseph	11500	73902	WTS MEASURES PETRO SPEC-SEN	019671	24.41	7/9/2001 ^W
100044340	Williams	Jared	11500	73902	WTS MEASURES PETRO SPEC-SEN	317554	24.13	11/1/2004 ^W
100020683	Dagenhardt	James	11500	73902	WTS MEASURES PETRO SPEC-SEN	303302	23.94	5/2/2005 ^W
100049366	Daniel	Jacques	11500	73902	WTS MEASURES PETRO SPEC-SEN	023919	23.65	10/31/2005 ^W
100048039	Sander	David	11500	73902	WTS MEASURES PETRO SPEC-SEN	013784	27.25	12/11/2006
100027403	Schreiber	Joe	11500	73902	WTS MEASURES PETRO SPEC-SEN	009072	23.18	8/18/2008 ^W
100005068	Saladino	Joseph	11500	73902	WTS MEASURES PETRO SPEC-SEN	021198	23.18	12/8/2008 ^W
100034950	Kohlman	Joel	11500	73902	WTS MEASURES PETRO SPEC-SEN	002577	27.35	3/2/2009
100045210	Mccarthy	Kevin	11500	73902	WTS MEASURES PETRO SPEC-SEN	001015	22.99	1/3/2011 ^W
100016388	Torpen	Nathan	11500	73902	WTS MEASURES PETRO SPEC-SEN	016134	22.99	5/9/2011 ^W
100063141	Dequalne	Mark	11500	73902	WTS MEASURES PETRO SPEC-SEN	010902	22.73	11/18/2013 ^W
100063437	O'Brien	Erin	11500	73902	WTS MEASURES PETRO SPEC-SEN	011873	22.73	1/2/2014 ^W
100063644	Lochner	Angela	11500	73902	WTS MEASURES PETRO SPEC-SEN	320777	26.75 23.40	1/13/2014 ^W
100070299	Stoddard	Kent	11500	73902	WTS MEASURES PETRO SPEC-SEN	035517	23.31	9/8/2015
100089818	Suri	Shawn	11500	73902	WTS MEASURES PETRO SPEC-SEN	015133	26.29	4/4/2016
100097874	Brockman	Chad	11500	73902	WTS MEASURES PETRO SPEC-SEN	014108	24.75	3/20/2017

- (h) Equity DERA will only be approved if the employee's salary has been determined to be lower than that of other state employees performing the same

I-14

Exhibit 1048 p. 150

Section I – 6.00

or similar duties at the same level of proficiency and who have comparable years of state service or if there is significant pay compression between the employee and the subordinates supervised. Limitations to these criteria will include:

1. External labor market factors will not be used.
 2. Salary averages will not be used for comparison purposes.
 3. Salary targets will not be used.
 4. The comparison group for determining equity will be all employees in the same classification, either in the entire agency or statewide, unless otherwise approved by DPM in advance of submission to DPM. With advance approval by DPM, an official subtitle or a working title within a classification may also be used as the comparison group.
 5. "Peer groups" based on agency-determined segments of state years of service or pay groupings within a classification will not be used for comparison purposes.
 6. The equity adjustment will not create a larger equity issue than the one being resolved.
 7. In determining compression, the supervisor must be able to perform the functions of, or provide technical expertise to, the employee(s) used to make the compression comparison.
- (i) Retention DERA will only be approved if the employee has a job offer in hand and the resultant loss of the employee's knowledge and experience would be a detriment to the agency.
- (j) Retention DERA will not be approved for potential movements within an agency or to another executive branch, non-UW agency.

Equity and Retention DERA

Exhibit 1051 – DATCP Fiscal Year 2019 DMC/DERA Plan

DATCP FY19 DMC/DERA Plan

Page 2

DERA Strategy

DATCP is permitted 27 equity DERA awards, all of which will be used by the agency. DATCP's method for determining equity recipients is as follows:

- DATCP Human Resources staff will provide wage and state service information to Division Administrators and the Secretary's Office for use in identifying positions or areas of greatest need (e.g., inequity, compression between supervisors and employees, etc.).
- Each Division Administrator will be asked to review the recommendations received and identify whether or not s/he endorses or rejects the recommendation for a DERA for each person within the division based on the employee's work performance and responsibilities.
- Final division recommendations will be reviewed by the Deputy Secretary; once award recipients are finalized by the Secretary's Office, the assigned DATCP Human Resources staff will coordinate submission to DOA-DPM.

2019 DERA recipients

Name	Seniority Date	Hourly wage	DERA amount	End wage
Daniel, Jacques	10/31/2005	24.62	2.40	27.02
McCarthy, Kevin	1/3/2011	23.92	2.40	26.32
Malek, Joseph	7/9/2001	25.40	2.40	27.80
Petzold, Jonathan	10/13/2003	27.08	0.72	27.80
Saladino, Joseph	12/8/2008	24.13	2.40	26.53
Santroch, Wayne	8/30/1993	27.76	0.65	28.41
Torpen, Nathan	5/9/2011	23.92	2.40	26.32
Schreiber, Joe	8/1/2008	24.13	2.40	26.53

The pay differential - causation

- **DATCP's business decision to move the weights and measures classification to a broadband pay schedule and start paying the new hires for the experience they brought to DATCP;**
- **The strictures of the Comp plan limited DATCP's ability to raise the salaries of the weights and measures inspectors hired before broad-banding**
- **With a limited number of equity DERA, DATCP started with the most senior inspectors with the greatest inequities and worked its way down;**
- **The 2019-21 Comp plan finally allowed DATCP to give Ms. Lochner a \$2.06 discretionary raise bringing her salary to the same level as other inspectors hired before broad-banding who, like Ms. Lochner, had under 10 years of State service;**

December 2019 discretionary market dollars – started well before this lawsuit was filed on October 25, 2019

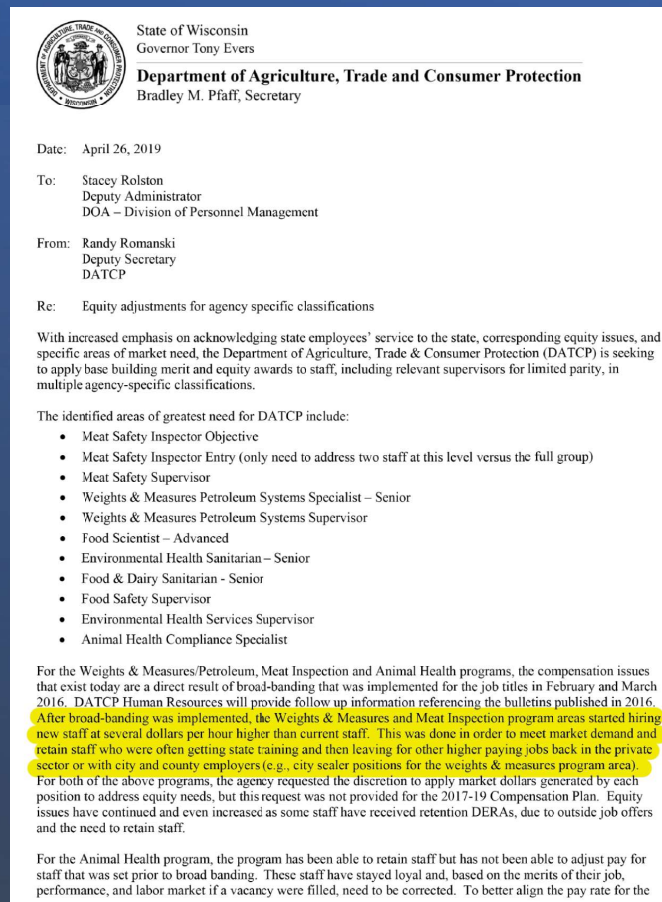


Exhibit 1011

December 2019 discretionary market dollars – started well before this lawsuit was filed on October 25, 2019

Date: April 26, 2019

To: Stacey Rolston
Deputy Administrator
DOA – Division of Personnel Management

From: Randy Romanski
Deputy Secretary
DATCP

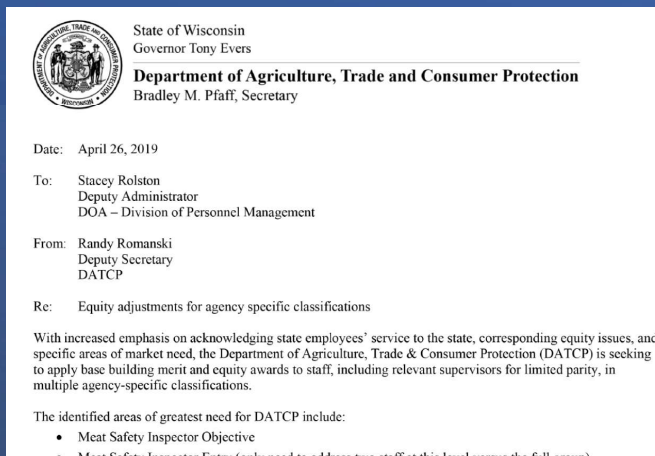
Re: Equity adjustments for agency specific classifications

- Meat Safety Inspector Objective
- Meat Safety Inspector Entry (only need to address two staff at this level versus the full group)
- Meat Safety Supervisor
- Weights & Measures Petroleum Systems Specialist – Senior
- Weights & Measures Petroleum Systems Supervisor
- Food Scientist – Advanced
- Environmental Health Sanitarian – Senior
- Food & Dairy Sanitarian - Senior
- Food Safety Supervisor
- Environmental Health Services Supervisor
- Animal Health Compliance Specialist

For the Weights & Measures/Petroleum, Meat Inspection and Animal Health programs, the compensation issues that exist today are a direct result of broad-banding that was implemented for the job titles in February and March 2016. DATCP Human Resources will provide follow up information referencing the bulletins published in 2016. After broad-banding was implemented, the Weights & Measures and Meat Inspection program areas started hiring new staff at several dollars per hour higher than current staff. This was done in order to meet market demand and retain staff who were often getting state training and then leaving for other higher paying jobs back in the private sector or with city and county employers (e.g., city sealer positions for the weights & measures program area). For both of the above programs, the agency requested the discretion to apply market dollars generated by each position to address equity needs, but this request was not provided for the 2017-19 Compensation Plan. Equity issues have continued and even increased as some staff have received retention DERAs, due to outside job offers and the need to retain staff.

For the Animal Health program, the program has been able to retain staff but has not been able to adjust pay for staff that was set prior to broad banding. These staff have stayed loyal and, based on the merits of their job, performance, and labor market if a vacancy were filled, need to be corrected. To better align the pay rate for the

December 2019 discretionary market dollars – started well before this lawsuit was filed on October 25, 2019



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WTS Measures Petro Spec Discretionary Market Planning Worksheet											Total	Total	
											\$ 20.30	\$ 20.30	
ID	Empl Record	Last	First Name	Unit	Position	Job Code	Descr	Company Dt	YOS	Current Base Rate	do not revise! Market Generation	Market Award	New BaseRate
100038479	0	Stobb	Robert	11500	317556	73902	WTS MEASURES PETRO SPEC-SEN	3/10/1989	30.8	30.21	\$ 0.70		30.21
100010994	0	Santroch	Wayne	11500	14176	73902	WTS MEASURES PETRO SPEC-SEN	8/30/1993	26.3	28.41	\$ 0.70	1.59	30.00
100032270	0	Mccann	Richard	11500	317851	73902	WTS MEASURES PETRO SPEC-SEN	10/25/1999	20.2	29.96	\$ 0.70		29.96
100040955	0	Hailer	Steven	11500	17665	73902	WTS MEASURES PETRO SPEC-SEN	12/6/1999	20.0	27.58	\$ 0.70	0.92	28.50
100007939	0	Malek	Joseph	11500	19671	73902	WTS MEASURES PETRO SPEC-SEN	7/9/2001	18.5	27.80	\$ 0.70	0.69	28.49
100040888	0	Petzold	Jonathan	11500	317551	73902	WTS MEASURES PETRO SPEC-SEN	10/13/2003	16.2	27.80	\$ 0.70	0.69	28.49
100032131	0	Garbe	Jay	11500	317552	73920	WTS MEASURES PETRO SUPV	3/21/2005	14.8	31.27	\$ 0.70	0.7	31.97
100049366	0	Daniel	Jacques	11500	23919	73902	WTS MEASURES PETRO SPEC-SEN	10/31/2005	14.1	27.02	\$ 0.70	1.47	28.49
100048039	0	Sander	David	11500	13784	73902	WTS MEASURES PETRO SPEC-SEN	12/11/2006	13.0	28.36	\$ 0.70	0.13	28.49
100027403	0	Schreiber	Joe	11500	9072	73902	WTS MEASURES PETRO SPEC-SEN	8/18/2008	11.3	26.53	\$ 0.70	1.96	28.49
100034950	0	Kohlman	Joel	11500	2577	73902	WTS MEASURES PETRO SPEC-SEN	3/2/2009	10.8	28.46	\$ 0.70		28.46
100045210	0	Mccarthy	Kevin	11500	1015	73902	WTS MEASURES PETRO SPEC-SEN	1/3/2011	9.0	26.32	\$ 0.70	0.09	26.41
100016388	0	Torpen	Nathan	11500	16134	73902	WTS MEASURES PETRO SPEC-SEN	5/9/2011	8.6	26.32	\$ 0.70	0.09	26.41
100044782	0	Dummer	Douglas	11500	21598	73920	WTS MEASURES PETRO SUPV	5/23/2011	8.6	31.27	\$ 0.70	0.7	31.97
100063038	0	Garbe	Keith	11500	1195	73920	WTS MEASURES PETRO SUPV	11/4/2013	6.1	31.27	\$ 0.70	0.7	31.97
100063141	0	Dequaine	Mark	11500	10902	73902	WTS MEASURES PETRO SPEC-SEN	11/18/2013	6.1	23.66	\$ 0.70	2.75	26.41
100063437	0	O'Brien	Erin	11500	11873	73902	WTS MEASURES PETRO SPEC-SEN	1/2/2014	6.0	23.66	\$ 0.70	2.75	26.41
100063644	0	Lochner	Angela	11500	320777	73902	WTS MEASURES PETRO SPEC-SEN	1/13/2014	5.9	24.35	\$ 0.70	2.06	26.41
100099585	0	Loreck	Gregory	11500	2043	73920	WTS MEASURES PETRO SUPV	2/20/2014	5.8	31.27	\$ 0.70	0.7	31.97
100068541	0	Sindelar	Edward	11500	1875	73902	WTS MEASURES PETRO SPEC-SEN	9/22/2014	5.2	30.48	\$ 0.70		30.48
100074175	0	Burdick	Joel	11500	35172	73902	WTS MEASURES PETRO SPEC-SEN	8/10/2015	4.4	27.36	\$ 0.70		27.36
100070299	0	Stoddard	Kent	11500	35517	73902	WTS MEASURES PETRO SPEC-SEN	9/8/2015	4.3	24.26	\$ 0.70	2.15	26.41
100089818	0	Suri	Shawn	11500	15133	73902	WTS MEASURES PETRO SPEC-SEN	4/4/2016	3.7	27.36	\$ 0.70		27.36
100072042	0	Dailey	Michael	11500	16495	73902	WTS MEASURES PETRO SPEC-SEN	1/9/2017	3.0	26.32	\$ 0.70	0.08	26.40
100097874	0	Brockman	Chad	11500	14108	73902	WTS MEASURES PETRO SPEC-SEN	3/20/2017	2.8	27.36	\$ 0.70		27.36
100100056	0	Nelson	Stefanie	11500	852	73902	WTS MEASURES PETRO SPEC-SEN	6/12/2017	2.5	26.32	\$ 0.70	0.08	26.40
100100988	0	Karczewski	Jason	11500	20354	73902	WTS MEASURES PETRO SPEC-SEN	7/24/2017	2.4	27.36	\$ 0.70		27.36
100107068	0	Smithy	Lance	11500	317730	73902	WTS MEASURES PETRO SPEC-SEN	4/30/2018	1.6	27.61	\$ 0.70		27.61
100097912	0	Eberle	Nicholas	11500	317856	73902	WTS MEASURES PETRO SPEC-SEN	4/15/2019	0.7	26.60	\$ 0.70		26.60

The pay differential - causation

- **DATCP's business decision to move the weights and measures classification to a broadband pay schedule and start paying the new hires for the experience they brought to DATCP;**
- **The strictures of the Comp plan limited DATCP's ability to raise the salaries of the weights and measures inspectors hired before broad-banding**
- **With a limited number of equity DERA, DATCP started with the most senior inspectors with the greatest inequities and worked its way down;**
- **The 2019-21 Comp plan finally allowed DATCP to give Ms. Lochner a \$2.06 discretionary raise bringing her salary to the same level as other inspectors hired before broad-banding who, like Ms. Lochner, had under 10 years of State service;**
- **The DERA program was suspended in FY 2020, so only general wage adjustments—across the board—were available compensation tools.**

The DERA program was suspended in FY2020 (Exhibit 1019)

From: Secretary Brennan
To: WI DL All State Employees
Subject: COVID-19 Update
Date: Tuesday, April 28, 2020 9:21:40 PM
Attachments: Inmate001.ans

Dear State Employee Colleague,

The COVID-19 pandemic has had a fundamental impact on virtually every aspect of life, including how government operates. We asked you to help transform government in ways none of us thought we would have to do. There have been stories of innovation and creativity to ensure Wisconsin state government is still serving our residents. We are doing things differently every day, and circumstances may dictate that we continue to operate differently for an extended period of time.

The State's fiscal situation has also seen a dramatic change in recent weeks, and that too will have a significant impact on the way we do business for a longer period of time. While we entered this public health emergency in strong financial condition, the situation at both the state and federal level have changed dramatically since the Legislative Fiscal Bureau released its January 2020 revenue estimates and revised 2019-21 general fund condition. The impact of the crisis on the overall economic climate will reduce state revenues at the same time that we are facing dramatically increased costs to marshal all potential resources to fight COVID-19.

Wisconsin has received federal assistance to offset some of the additional costs that state and local governments have incurred due to the COVID-19 public health emergency, that assistance cannot be used to offset any loss of revenue that has occurred during this emergency. Given current economic indicators signal a national recession and weakness in state tax collections, the executive branch agencies will be making changes in fiscal year 2019-20 to best position the state financially for an unknown future.

In order to begin to offset the loss of state revenues, we will immediately implement a reduction of 5 percent to state operations GPR appropriations in executive branch agencies for fiscal year 2019-20. These reductions will improve the general fund balance for fiscal year 2019-20, providing additional cushion until the revenue picture for the biennium becomes clearer.

Part of our efforts include continuing some of the steps that were implemented several weeks ago. All state-sponsored out of state travel will be restricted unless deemed to be essential for COVID-19 response. We also will continue to maintain a hiring freeze, with exceptions for COVID-19 related positions and those deemed essential for continuing business functions. **Additionally, we will be suspending the Discretionary Merit Compensation (DMC) Program and restricting the Discretionary Equity and Retention Award (DERA) Program for the remainder of**

Exhibit 1019 p. 001

the fiscal year.

People across our state – and in state government – are hurting, these are challenging days. We do not take these or any other steps lightly and will do everything we can to limit ongoing impact on all the state employees who continue to provide great service, but we also know that waiting any longer to institute cost savings could have an even greater impact on our state's workforce in the months to come.

Over the course of the last 15 months, we have come to know and respect the ingenuity and innovative spirit of Wisconsin state employees. Over the last six weeks, you have shown resolve, courage, and an unbreakable Wisconsin spirit as we have accomplished great things to ensure that we carry out every critical state function under the most challenging conditions. And we have confidence that in the coming weeks, you will help provide creative ways to deliver services and perform while laying the groundwork to manage any revenue and budget challenges that COVID-19 puts in our path. We appreciate your dedication and commitment, and we look forward to meeting all the challenges together, head-on.

Sincerely,

Secretary Brennan



JOEL BRENNAN | Secretary
Department of Administration
Phone: (608) 266-1741

WMPSS General Wage Adjustment 1.3.21

Last Name	First Name	M.I.	Adjusted Seniority Date	Classification	Sched	Rng	Class Start Date	Old Total Rate w/ add-on	Old Base Rate	Increase Amount	New Base Rate
Stobb	Robert	J	3/10/1989	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	6/15/2014	30.82	30.82	0.62	31.44
Lyngen	Janet	L	2/22/1993	WTS & MEASURES PETRO SYS SPEC-ENT	05	63	5/28/2017	26.77	26.77	0.54	27.31
Santroch	Wayne	Allen	8/30/1993	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	8/11/2013	30.60	30.60	0.62	31.22
Mccann	Richard	R	10/25/1999	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	3/3/2019	30.56	30.56	0.62	31.18
Hailer	Steven	L	12/6/1999	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	8/11/2013	29.07	29.07	0.59	29.66
Malek	Joseph	M	7/9/2001	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	8/11/2013	29.06	29.06	0.59	29.65
Petzold	Jonathan	D	10/13/2003	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	7/8/2018	29.06	29.06	0.59	29.65
Daniel	Jacques	E	10/31/2005	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	6/15/2014	29.06	29.06	0.59	29.65
Sander	David		12/11/2006	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	6/15/2014	29.06	29.06	0.59	29.65
Schreiber	Joe	A	8/18/2008	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	8/11/2013	29.06	29.06	0.59	29.65
Kohlman	Joel	J	3/2/2009	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	3/4/2018	29.03	29.03	0.59	29.62
Mccarthy	Kevin	B	1/3/2011	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	6/15/2014	26.94	26.94	0.54	27.48
Torpen	Nathan	R	5/9/2011	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	8/11/2013	26.94	26.94	0.54	27.48
Dequaine	Mark	J	11/18/2013	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	6/14/2015	26.94	26.94	0.54	27.48
Clark	Benjamin	S	12/22/2013	WTS & MEASURES PETRO SYS SPEC-ENT	05	63	7/22/2018	25.76	25.76	0.52	26.28
O'Brien	Erin	J	1/2/2014	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	6/28/2014	26.94	26.94	0.54	27.48
Lochner	Angela	M	1/13/2014	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	5/14/2017	26.94	26.94	0.54	27.48
Burdick	Joel	M	8/10/2015	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	11/25/2018	27.91	27.91	0.56	28.47
Stoddard	Kent	R	9/8/2015	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	7/9/2017	26.94	26.94	0.54	27.48
Suri	Shawn	E.	4/4/2016	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	4/29/2018	27.91	27.91	0.56	28.47
Brockman	Chad	W	3/20/2017	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	10/14/2018	27.91	27.91	0.56	28.47
Nelson	Stefanie	A	6/12/2017	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	12/23/2018	26.93	26.93	0.54	27.47
Karczewski	Jason	L	7/24/2017	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	12/23/2018	27.91	27.91	0.56	28.47
Smithy	Lance	J.	4/30/2018	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	8/4/2019	28.17	28.17	0.57	28.74
Hoffmann	Anthony	P	8/6/2018	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	3/2/2020	28.70	28.70	0.58	29.28
Schaefer	Jacob	R	8/20/2018	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	1/19/2020	28.17	28.17	0.57	28.74
Lindert	Daniel	Ward	9/4/2018	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	3/29/2020	27.69	27.69	0.56	28.25
Soper	Travis	I	1/22/2019	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	11/22/2020	27.19	27.19	0.55	27.74
Eberle	Nicholas	A	4/15/2019	WTS & MEASURES PETRO SYS SPEC-SEN	05	63	12/8/2019	27.14	27.14	0.55	27.69
Uminski	Joseph	W	8/19/2019	WTS & MEASURES PETRO SYS SPEC-ENT	05	63	8/19/2019	25.76	25.76	0.52	26.28
Leone	Darren	J	9/3/2019	WTS & MEASURES PETRO SYS SPEC-ENT	05	63	9/3/2019	25.50	25.50	0.51	26.01
Miller	David	A	9/28/2020	WTS & MEASURES PETRO SYS SPEC-ENT	05	63	9/28/2020	25.00	25.00	0.50	25.50

Lochner's *prima facie* case

NAME	SENIORITY DATE	WMPSS ENTRY DATE	WMPSS "SENIOR" Reclass Date	WMPSS ENTRY HOURLY WAGE	HOURLY WAGE EFF. 2/18/18	HOURLY WAGE EFF. 6/24/2018	HOURLY WAGE EFF. 1/6/2019	HOURLY WAGE EFF. 12/22/2019	HOURLY WAGE EFF. 1/5/2020	HOURLY WAGE EFF. 1/3/2021
Lochner	1/13/2014	11/1/2015		\$20.34	\$23.40	\$23.87	\$24.35	\$26.41	\$26.94	\$27.48
Burdick	8/10/2015	6/25/2017	11/25/2018	\$24.00	\$24.75	\$25.25	\$27.36	\$27.36	\$27.91	\$28.47
Suri	4/4/2016	4/4/2016	4/29/2018	\$24.00	\$24.75	\$26.82	\$27.36	\$27.36	\$27.91	\$28.47
Dailey	1/9/2017	1/9/2017	7/9/2018	\$23.00	\$23.75	\$24.23	\$26.32	\$26.40	\$26.93	
Brockman	3/20/2017	3/20/2017	10/14/2018	\$24.00	\$24.75	\$25.25	\$27.36	\$27.36	\$27.91	\$28.47
Karczewski	7/24/2017	7/24/2017	12/23/2018	\$24.00	\$24.75	\$25.25	\$27.36	\$27.36	\$27.91	\$28.47
Smithey	4/30/2018	4/30/2018	8/4/2019	\$25.00		\$25.50	\$26.01	\$26.01	\$28.17	\$28.74
Hoffmann	8/6/2018	8/6/2018	3/2/2020	\$26.00			\$26.52	\$26.52	\$27.06	\$29.28
Schaefer	8/20/2018	8/20/2018	1/19/2020	\$25.00			\$25.50	\$25.50	\$26.01	
Lindert	9/4/2018	9/4/2018	3/29/2020	\$24.25			\$24.74	\$24.74	\$25.24	\$28.25
Eberle	4/15/2019	4/15/2019	12/8/2019	\$25.00				\$26.60	\$27.14	\$27.69
Uminski	8/19/2019	8/19/2019		\$25.25				\$25.25	\$25.76	\$26.28

**Post-
broadbanding
hiring
justifications**

Dkt. 32-1 ¶¶
106-110, 112-
132

Shawn Suri <ul style="list-style-type: none"> • Certified tank specialist • 7 years fuel specialist 	Anthony Hoffmann <ul style="list-style-type: none"> • 5 years exp. weights and measures
Michael Dailey <ul style="list-style-type: none"> • 3 years exp regulatory enforcement fieldwork • 1 year WMPSS LTE • 15 weights and measures trainings 	Jacob Schaefer <ul style="list-style-type: none"> • WMPSS LTE – highly regarded employee • Negotiated salary
Chad Brockman <ul style="list-style-type: none"> • 5 years relevant weights and measures exp • Some chemical engineering 	Daniel Lindert <ul style="list-style-type: none"> • 25 years aircraft maintenance • Experience with storage tanks and scales
Joel Burdick <ul style="list-style-type: none"> • Science and fire safety background • 21 months meat safety inspector 	Nicholas Eberle <ul style="list-style-type: none"> • WMPSS LTE 2+ years, \$20-\$21 per hour • Negotiated salary
Jason Karczewski <ul style="list-style-type: none"> • 20 years, managing pricing, sales, inventory, and point of sales computer systems; computer science 	Joseph Uminski <ul style="list-style-type: none"> • 16 years law enforcement • 3rd candidate
Lance Smithey <ul style="list-style-type: none"> • Over 4 years petroleum industry, meter testing and calibration, tank system testing, etc. • hazardous material training 	

Lochner's *prima facie* case + pre-broadband men

NAME	SENIORITY DATE	WMPSS ENTRY DATE	WMPSS "SENIOR" Reclass Date	WMPSS ENTRY HOURLY WAGE	HOURLY WAGE EFF. 2/18/18	HOURLY WAGE EFF. 6/24/2018	HOURLY WAGE EFF. 1/6/2019	HOURLY WAGE EFF. 12/22/2019	HOURLY WAGE EFF. 1/5/2020	HOURLY WAGE EFF. 1/3/2021
Schreiber	8/18/2008	8/18/2008	8/3/2009	\$19.451	\$23.18	\$23.65	\$24.13	\$28.49	\$29.06	\$29.65
McCarthy	1/3/2011	1/3/2011	6/15/2014	\$16.958	\$22.99	\$23.45	\$23.92	\$26.41	\$26.94	\$27.48
Torpen	5/9/2011	5/9/2011	6/17/2012	\$19.841	\$22.99	\$23.45	\$23.92	\$26.41	\$26.94	\$27.48
Dequaine	11/18/2013	11/18/2013	6/14/2015	\$20.04	\$22.73	\$23.19	\$23.66	\$26.41	\$26.94	\$27.48
Lochner	1/13/2014	11/1/2015	5/14/2017	\$20.34	\$23.40	\$23.87	\$24.35	\$26.41	\$26.94	\$27.48
Burdick	8/10/2015	6/25/2017	11/25/2018	\$24.00	\$24.75	\$25.25	\$27.36	\$27.36	\$27.91	\$28.47
Stoddard	9/8/2015	9/8/2015	7/9/2017	\$20.25	\$23.31	\$23.75	\$24.26	\$26.41	\$26.94	\$27.48
Suri	4/4/2016	4/4/2016	4/29/2018	\$24.00	\$24.75	\$26.82	\$27.36	\$27.36	\$27.91	\$28.47
Dailey	1/9/2017	1/9/2017	7/9/2018	\$23.00	\$23.75	\$24.23	\$26.32	\$26.40	\$26.93	
Brockman	3/20/2017	3/20/2017	10/14/2018	\$24.00	\$24.75	\$25.25	\$27.36	\$27.36	\$27.91	\$28.47
Karczewski	7/24/2017	7/24/2017	12/23/2018	\$24.00	\$24.75	\$25.25	\$27.36	\$27.36	\$27.91	\$28.47
Smithey	4/30/2018	4/30/2018	8/4/2019	\$25.00		\$25.50	\$26.01	\$26.01	\$28.17	\$28.74
Hoffmann	8/6/2018	8/6/2018	3/2/2020	\$26.00			\$26.52	\$26.52	\$27.06	\$29.28
Schaefer	8/20/2018	8/20/2018	1/19/2020	\$25.00			\$25.50	\$25.50	\$26.01	
Lindert	9/4/2018	9/4/2018	3/29/2020	\$24.25			\$24.74	\$24.74	\$25.24	\$28.25
Eberle	4/15/2019	4/15/2019	12/8/2019	\$25.00				\$26.60	\$27.14	\$27.69
Uminski	8/19/2019	8/19/2019		\$25.25				\$25.25	\$25.76	\$26.28

Lochner's *prima facie* case + pre-broadband men

NAME	SENIORITY DATE	WMPSS ENTRY DATE	WMPSS "SENIOR" Reclass Date	WMPSS ENTRY HOURLY WAGE	HOURLY WAGE EFF. 2/18/18	HOURLY WAGE EFF. 6/24/2018	HOURLY WAGE EFF. 1/6/2019	HOURLY WAGE EFF. 12/22/2019	HOURLY WAGE EFF. 1/5/2020	HOURLY WAGE EFF. 1/3/2021
Schreiber	8/18/2008	8/18/2008	8/3/2009	\$19.451	\$23.18	\$23.65	\$24.13	\$28.49	\$29.06	\$29.65
McCarthy	1/3/2011	1/3/2011	6/15/2014	\$16.958	\$22.99	\$23.45	\$23.92	\$26.41	\$26.94	\$27.48
Torpen	5/9/2011	5/9/2011	6/17/2012	\$19.841	\$22.99	\$23.45	\$23.92	\$26.41	\$26.94	\$27.48
Dequaine	11/18/2013	11/18/2013	6/14/2015	\$20.04	\$22.73	\$23.19	\$23.66	\$26.41	\$26.94	\$27.48
Lochner	1/13/2014	11/1/2015	5/14/2017	\$20.34	\$23.40	\$23.87	\$24.35	\$26.41	\$26.94	\$27.48
Burdick	8/10/2015	6/25/2017	11/25/2018	\$24.00	\$24.75	\$25.25	\$27.36	\$27.36	\$27.91	\$28.47
Stoddard	9/8/2015	9/8/2015	7/9/2017	\$20.25	\$23.31	\$23.75	\$24.26	\$26.41	\$26.94	\$27.48
Suri	4/4/2016	4/4/2016	4/29/2018	\$24.00	\$24.75	\$26.82	\$27.36	\$27.36	\$27.91	\$28.47
Dailey	1/9/2017	1/9/2017	7/9/2018	\$23.00	\$23.75	\$24.23	\$26.32	\$26.40	\$26.93	
Brockman	3/20/2017	3/20/2017	10/14/2018	\$24.00	\$24.75	\$25.25	\$27.36	\$27.36	\$27.91	\$28.47
Karczewski	7/24/2017	7/24/2017	12/23/2018	\$24.00	\$24.75	\$25.25	\$27.36	\$27.36	\$27.91	\$28.47
Smithey	4/30/2018	4/30/2018	8/4/2019	\$25.00		\$25.50	\$26.01	\$26.01	\$28.17	\$28.74
Hoffmann	8/6/2018	8/6/2018	3/2/2020	\$26.00			\$26.52	\$26.52	\$27.06	\$29.28
Schaefer	8/20/2018	8/20/2018	1/19/2020	\$25.00			\$25.50	\$25.50	\$26.01	
Lindert	9/4/2018	9/4/2018	3/29/2020	\$24.25			\$24.74	\$24.74	\$25.24	\$28.25
Eberle	4/15/2019	4/15/2019	12/8/2019	\$25.00				\$26.60	\$27.14	\$27.69
Uminski	8/19/2019	8/19/2019		\$25.25				\$25.25	\$25.76	\$26.28

Broadbanding necessary: market growth stagnant from 2009-2017 (Rolston Trial Testimony); allowed state to recruit talent and increase salaries of existing employees

The only way Angela Lochner could have received a higher salary than the employees hired post-broadbanding would be to have

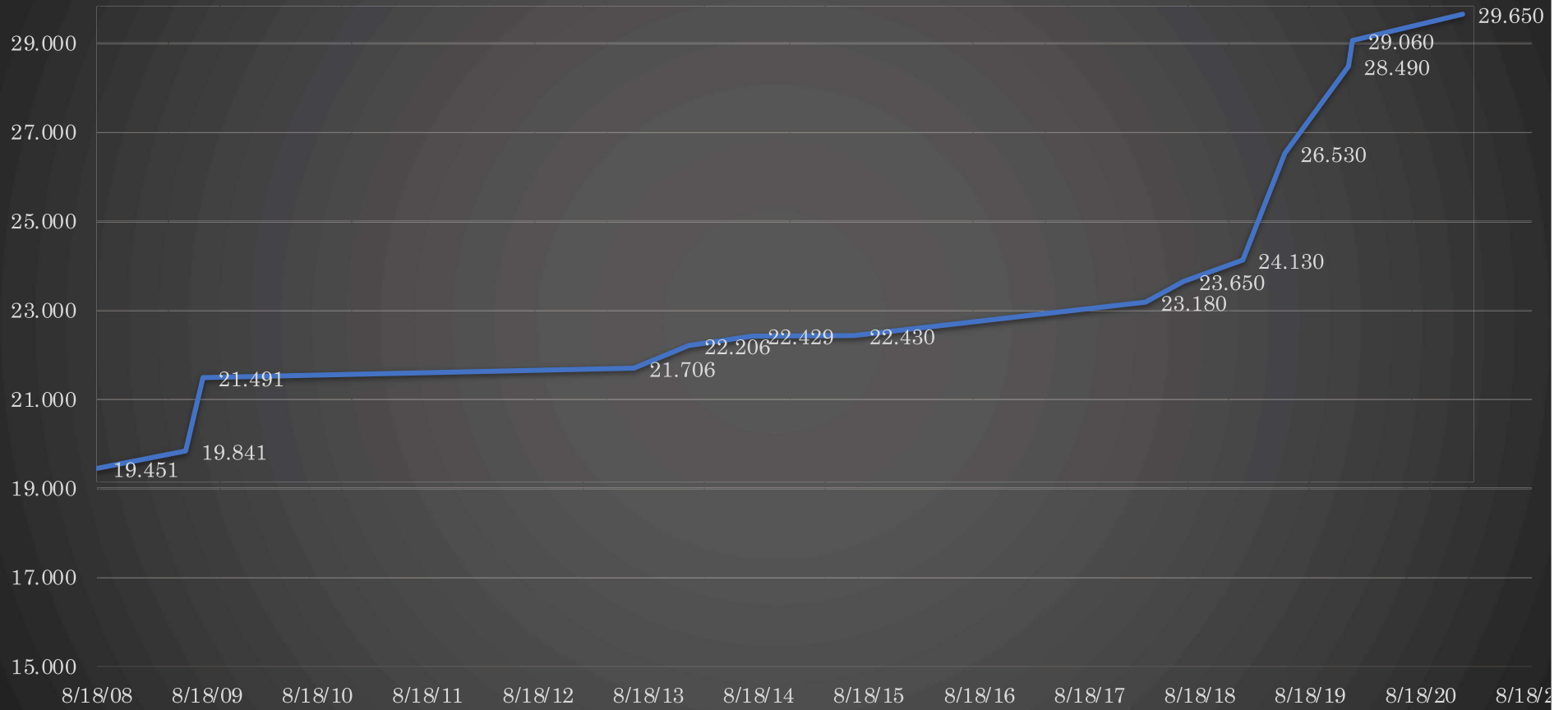
- never implemented broadbanding, or
- never tried to use higher starting wages to remedy DATCP's recruitment and retention problems

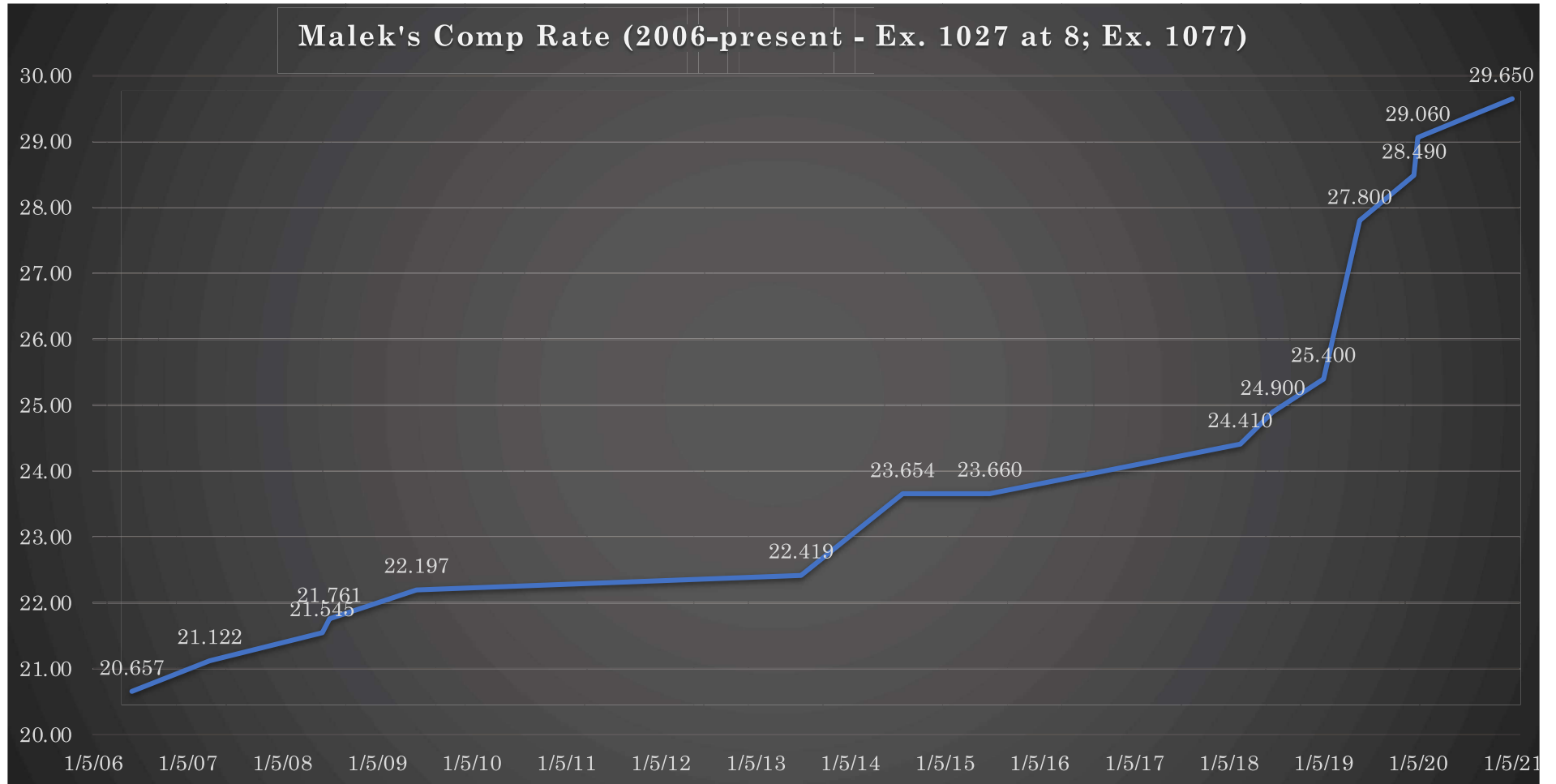
Broadbanding allowed DATCP to raise salaries of existing employees

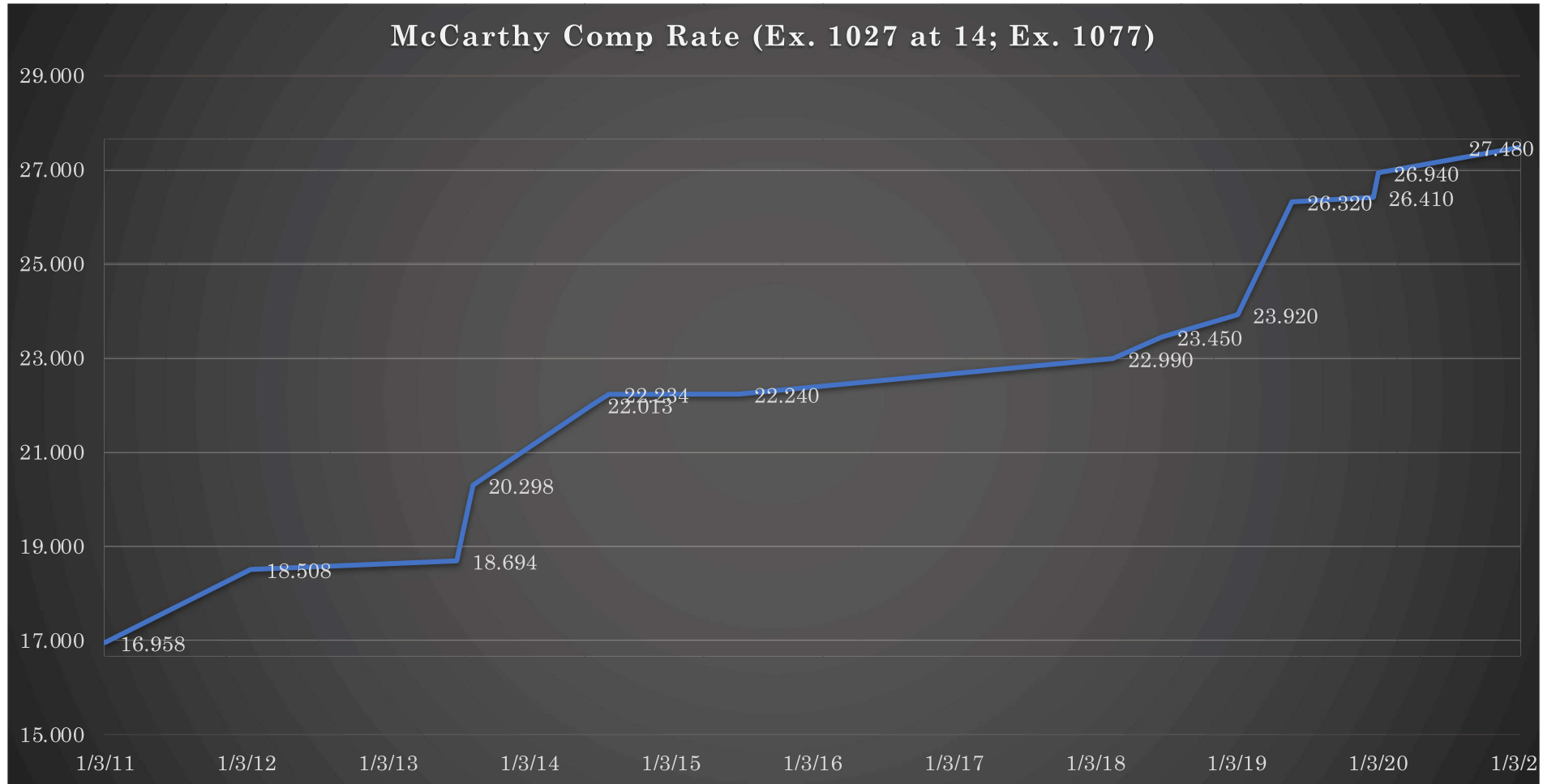
- Internal inequity gets priority for resolution in the comp plan
- And DATCP raised the salaries faster than it would have been able to without broadbanding



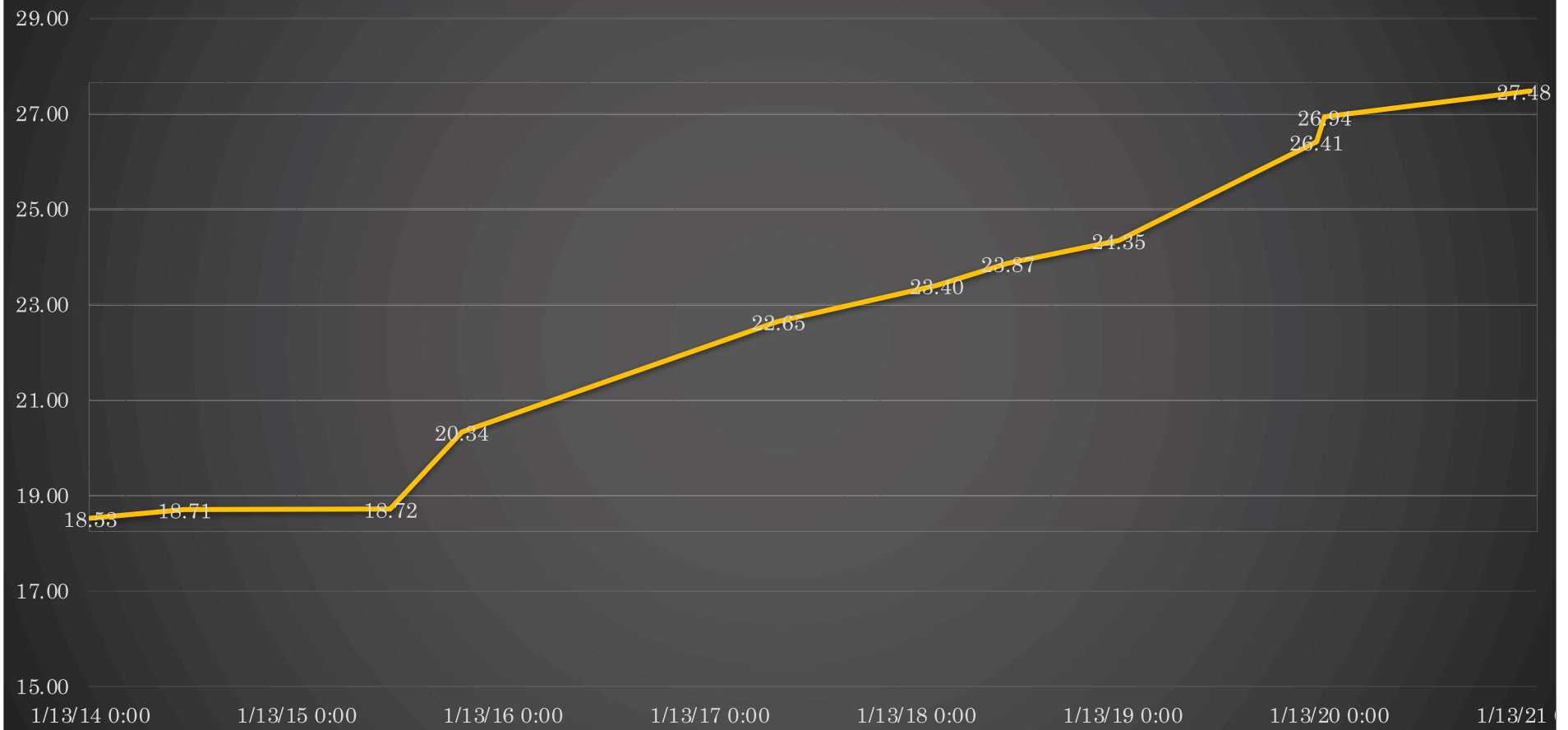
Schreiber Comp Rate (Ex. 1027 at 12; Ex. 1077)







Lochner's Comp Rate (Ex. 1027 at 18; Ex. 1077)



Lochner v. DATCP



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